

COMPLAINT

(for non-prisoner filers without lawyers)

U.S. DISTRICT COURT
EASTERN DISTRICT-WI
FILED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

2020 AUG 25 P 4:17

CLERK OF COURT

(Full name of plaintiff(s))

Brandi N. Johnson,

(hereinafter ("Ms. Johnson")),

v.

Case Number:

(Full name of defendant(s))

FedEx Ground Package Systems, Inc.,

(hereinafter "FGPSI"),

20-cv-1311
(to be supplied by Clerk of Court)

A. PARTIES

1. Plaintiff is a citizen of Wisconsin and resides at
(State)

3800 N. Calhoun Rd., Brookfield, WI 53005

(Address)

(If more than one plaintiff is filing, use another piece of paper.)

2. Defendant FedEx Ground Package Systems, Inc.

(Name)

is (if a person or private corporation) a citizen of Pennsylvania
(State, if known)
and (if a person) resides at 1000 FedEx Dr., Moon Township, PA 15108
(Address, if known)
and (if the defendant harmed you while doing the defendant's job)
worked for _____
(Employer's name and address, if known)

(If you need to list more defendants, use another piece of paper.)

B. STATEMENT OF CLAIM

On the space provided on the following pages, tell:

1. Who violated your rights;
2. What each defendant did;
3. When they did it;
4. Where it happened; and
5. Why they did it, if you know.

Plaintiff, Ms. Johnson, hereby states her complaint against,

Defendant, FGPSI;

1.(Nature of the Case) Ms. Johnson, alleges that Defendant, FGPSI, engaged in race discrimination and retaliation in violation 42 U.S.C. § 1981.

2.(Jurisdiction and Venue) This court has jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4), and as Plaintiff is alleging violations of her civil rights under the Civil Rights Act of 1866, 42 U.S.C. §1981 ("Section 1981").

3.(Conditions Precedent) All conditions precedent to this action within meaning of Rule 9(c), Fed.R.Civ.Pro, have been performed or have otherwise occurred.

4.(Jury Demand) Ms. Johnson, demands that this case be tried to a jury of her peers.

5.(Parties) Ms. Johnson, is an African-American female residing at 3800 N. Calhoun Rd., Brookfield, WI 53005. Defendant, FGPSI, is incorporated under the laws of the State of Delaware, maintains its headquarters at 1000 FedEx Dr., Moon Township, Pennsylvania 15108, and operates facilities at 5300 S. International Dr., Cudahy, WI 53110 and N96W14849 County Line Rd., Menomonee Falls, WI 53051.

6.(Operative Facts) Ms. Johnson is a co-owner of Fairway Delivery, Inc. ("FDI"), former contract service provider for FGPSI. On or about November 5, 2009, FDI and FGPSI entered a contractor relationship, pursuant to which FDI would deliver packages to FGPSI's customers. During Ms. Johnson's operation of FDI, she witnessed, was relative to, and subjected to various stereotypical, offensive, and discriminatory behaviors and remarks, generally about African Americans and also directly toward and about Ms. Johnson personally. Such things included, inter alia: (a) unfair criticism and harrassment of Ms. Johnson because of her race, African-American; (b) "Oh, don't pull that discrimination shit with me"; (c) "Brandi plays the race card"; (d) "How do you get rid of fire ants? You pour black ink on them so they kill each other when they realize they live in a black neighborhood"; (e) "What are we doing about terminating Fairway?"; (f) "I'll never support Black Lives Matter because Black people are far more likely to kill White people than White people are to kill Black people"; (g) "[Blacks] need to learn to manage their families before they can deal with anything else"; (h) "[Blacks] have to get their houses in order"; (i) "Black Lives Matter is a sham"; (j) "[Blacks] go to prison at

greater rates"; (k) "[Blacks] have babies out of wedlock"; (l) "[Blacks] need to fix their families"; (m) "That's what you get for living [in a Black neighborhood]" (in reference to being robbed); (n) posting of racist memes on Facebook; (o) telling of racist jokes; (p) "You can't live with them--don't get a house in a monkey neighborhood"; (q) "ebony and ivory working together"; (r) "Fairway will be the first to go as far as contract termination"; and (s) other unlawful, discriminatory and/or racially motivated comments and conduct regarding Ms. Johnson and African Americans. John Hendricks and Tony Viera-Senior Terminal Managers for FGPSI; Scott Davis, FGPSI Manager; Jeanette Schneider-Office Administrator; Jim Coyne, Wayne Sullivan, and Allison Weiss-Operations Coordinators for FGPSI; and, other management and employees of FGPSI engaged in racially discriminatory behavior toward Ms. Johnson. FGPSI further discriminated against Ms. Johnson by interfering with the Plaintiffs' deliveries, falsely accusing Ms. Johnson and her employees of misconduct in order to attempt to have Ms. Johnson and her employees terminated or disqualified from working with FGPSI, issuing and failing to issue Opportunities to Cure, providing Ms. Johnson and her employees with faulty equipment, falsely disqualifying Ms. Johnson from contract service or any work with FGPSI, falsely prohibiting Ms. Johnson from being present on FGPSI property, undermining Ms. Johnson's relationships with her employees, forcing Ms. Johnson to fire and discipline employee's for false reasons, blocking prospective employees from applying to and interviewing to work for Ms. Johnson, forbidding FGPSI personnel from dealing

with Ms. Johnson, and forcing Ms. Johnson to sell her routes to other caucasian FGPSI Contract Service Providers. Ms. Johnson opposed the discrimination to FGPSI management, including the FGPSI President and CEO, Mr. Henry Maier. Ms. Johnson filed repeated complaints within FGPSI processes, and made many attempts to correct the discrimination and problems through the FGPSI channels, with no success. Ms. Johnson feels that the FGPSI organization, all the way up the chain to their corporate and even legal departments were on a mission to get rid of her and her company. The aforesaid misconduct on the part of FGPSI was unwarranted and motivated by a racially discriminatory animus in violation of Section 1981. In further violation of Section 1981, and despite their knowledge of the racially offensive and discriminatory remarks, FGPSI executive leadership teams failed to take action to effectively prevent, address and/or rectify the subject misconduct – despite Ms. Johnson's good faith objections and complaints to FGPSI including, but not limited to various members of the executive team, e.g. O'Connor, Maier, and others. FGPSI also failed to provide its employees and executives with the requisite anti-discrimination, and anti-retaliation training and/or instruction to prevent and/or adequately prevent and address such matters in FGPSI facilities. On or about September 2, 2016, as a direct result of said racial harassment, and/or complaints and objections about the same at FGPSI, Ms. Johnson's company was unlawfully retaliated against and forced to assign its contract with FGPSI to another contractor following an unlawful contract termination, by or at the behest of

Hendricks, Viera, Beeman, and/or Maier. Section 1981 prohibits discriminatory treatment in a contractual relationship based upon a contractor's race, as well as retaliation (including interference with contract) against a contractor for complaining or objecting, in good faith, to discriminatory conduct in the workplace. The effect of FGPSI's racially discriminatory policies and practices, as alleged, deprived Ms. Johnson of equal contracting opportunities, to make and enforce contracts, and adversely affected Ms. Johnson's status as a contractor because of her race, African-American, as well as her related complaints and objections, as alleged. The above-described conduct by FGPSI was a willful and/or reckless disregard for Plaintiff's rights, and substantially interfered with Ms. Johnson's contractual relationship with FGPSI, and constitutes racial discrimination, and unlawful retaliation, in violation of Section 1981. All of the aforementioned conduct denied Ms. Johnson the protection and civil rights guaranteed by Section 1981. As a direct and proximate result of FGPSI's unlawful practices, and disregard for Ms. Johnson's rights and dignity, as alleged, Ms. Johnson has lost and will continue to lose remuneration and profits. As a direct and proximate result of FGPSI's unlawful practices, and disregard for Ms. Johnson's rights and dignity, as alleged, she has suffered severe emotional distress and anxiety, that has, according to health professionals, worsened and possibly caused a very serious health condition for Ms. Johnson. This health condition directly affects Ms. Johnson's ability to support herself, and her future employability.

As a direct and proximate result of FGPSI's unlawful practices, and disregard for Ms. Johnson's rights and dignity, as alleged, she has suffered emotional distress, humiliation and anxiety about her: ability to support herself, her future employability, career damage, reduced earning capacity, and the disruption and distress in her personal life. The aforesaid misconduct by FGPSI was willfull, wanton, and/or in deliberate disregard for Plaintiff's federally protected rights and warrants the imposition of punitive damages. FGPSI treated comparably situated non-African American contractors more favorably than Ms. Johnson, because of race. Ms. Johnson's corp. was highly successful under her operation, and was more than qualified as a contractor to continue providing contractual services to FGPSI when its contract was unlawfully terminated due to discrimination.

7.(Claim for Relief 42 U.S.C. § 1981- Race Discrimination) As and for a claim for relief, Plaintiff re-asserts the allegations recited above and fully incorporates those paragraphs herein by reference. FGPSI discriminated against Ms. Johnson because of her race and retaliated against her because she opposed FGPSI's discrimination, all in violation of 42 U.S.C. § 1981. FGPSI's discrimination and retaliation against Ms. Johnson in violation of 42 U.S.C. § 1981, caused the Plaintiff to suffer monetary losses, damage to reputation, trade, business, and/or profession; and caused Ms. Johnson to suffer humiliation, mental anguish, emotional distress, harm to personal relationships with her loved ones, stress and injury to her physical and mental well-being -- all to

her damage. WHEREFORE, the Plaintiff, Brandi N. Johnson, prays that this court grant the following relief against Defendant, FedEx Ground Package Systems, Inc.:

a. Compensation for monetary losses suffered by Ms. Johnson;

b. Compensation for the damage caused to Ms. Johnson's reputation, business, and/or profession;

c. Compensation for Ms. Johnson's humiliation, mental anguish, emotional distress, harm to her personal relationships, stress, and injury to her physical and mental health and well-being;

d. Payment of any attorney's fees that may be incurred by Ms. Johnson in prosecuting this claim, pursuant to 42 U.S.C. § 1988(b);

e. Payment of punitive damages in an amount sufficient to punish FGPSI and deter it from such unlawful conduct, now and in the future;

f. Payment of the costs and expenses incurred by the Plaintiff in litigating this claim;

g. Payment of the interest incurred by the Plaintiff as a result of FGPSI's refusal to pay this claim;

h. Such other relief as the Court deems just and equitable.

C. JURISDICTION

☐ I am suing for a violation of federal law under 28 U.S.C. § 1331.

OR

☐ I am suing under state law. The state citizenship of the plaintiff(s) is (are) different from the state citizenship of every defendant, and the amount of money at stake in this case (not counting interest and costs) is \$_____.

D. RELIEF WANTED

Describe what you want the Court to do if you win your lawsuit. Examples may include an award of money or an order telling defendants to do something or to stop doing something.

Please reference 7.(Claim for Relief 42 U.S.C. § 1981-Discrimination) under

[Statement of Claim] above, and following.

7.(Claim for Relief 42 U.S.C. § 1981- Race Discrimination) As and for a claim for relief, Plaintiff re-asserts the allegations recited above and fully incorporates those paragraphs herein by reference. FGPSI discriminated against Ms. Johnson because of her race and retaliated against her because she opposed FGPSI's discrimination, all in violation of 42 U.S.C. § 1981. FGPSI's discrimination and retaliation against Ms. Johnson in violation of 42 U.S.C. § 1981, caused the Plaintiff to suffer monetary losses, damage to reputation, trade, business, and/or profession; and caused Ms. Johnson to suffer humiliation, mental anguish, emotional distress, harm to personal relationships with her loved ones, stress and injury to her physical and mental well-being – all to

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e. Payment of punitive damages in an amount sufficient to punish FGPSI and deter it from such unlawful conduct, now and in the future;

f. Payment of the costs and expenses incurred by the Plaintiff in litigating this claim;

g. Payment of the interest incurred by the Plaintiff as a result of FGPSI's refusal to pay this claim;

h. Such other relief as the Court deems just and equitable.

E. JURY DEMAND

I want a jury to hear my case.

☒ - YES

☐ - NO

I declare under penalty of perjury that the foregoing is true and correct.

Complaint signed this 25 day of August 2020.

Respectfully Submitted,

Brandi N. Johnson
Signature of Plaintiff

262-327-9001
Plaintiff's Telephone Number

fairwaydelivery@yahoo.com
Plaintiff's Email Address

3800 N. Calhoun Rd.

Brookfield, WI 53005
(Mailing Address of Plaintiff)

(If more than one plaintiff, use another piece of paper.)

REQUEST TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING THE FILING FEE

☐ I DO request that I be allowed to file this complaint without paying the filing fee. I have completed a Request to Proceed in District Court without Prepaying the Filing Fee form and have attached it to the complaint.

☒ I DO NOT request that I be allowed to file this complaint without prepaying the filing fee under 28 U.S.C. § 1915, and I have included the full filing fee with this complaint.